

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, March 20, 2017
Council Chambers, Crested Butte Town Hall

Mayor Michel called the meeting to order at 7:02PM.

Council Members Present: Jim Schmidt, Jackson Petito, Chris Ladoulis, Roland Mason, and Paul Merck

Staff Present: Town Manager Dara MacDonald, Town Attorney John Belkin, and Planning Director Michael Yerman

Parks and Recreation Director Janna Hansen, Building and Zoning Director Bob Gillie, Public Works Director Rodney Due, and Town Clerk Lynelle Stanford (all for part of the meeting)

APPROVAL OF THE AGENDA

Schmidt moved and Merck seconded a motion to approve the agenda with the striking of item #2 on the Executive Session. A roll call vote was taken with all voting, "Yes."

Motion passed unanimously.

CONSENT AGENDA

1) March 6, 2017 Regular Town Council Meeting Minutes.

2) Resolution No. 12, Series 2017 - Resolutions of the Crested Butte Town Council Approving the Award of a Contract for Engineering Services for the Contract Management of the Wastewater Treatment Plant Upgrades 2017 and Authorizing the Town Manager to Enter Into an Engineering Services Agreement Between the Town of Crested Butte and FEI Engineers.

3) Resolution No. 13, Series 2017 - Resolutions of the Crested Butte Town Council Approving the Intergovernmental Agreement for a Regional Planning Commission for Transportation Planning Gunnison Valley Transportation Planning Region.

Item #1 was removed from the Consent Agenda and added under New Business.

Merck moved and Petito seconded a motion to approve the Consent Agenda and moving #1 into New Business. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

PUBLIC COMMENT

Harry Woods - Reported to live at 127 Luisa Lane in CB South and Managing Artistic Director at the Crested Butte Mountain Theatre

- Addressed rental increases at the Crested Butte Mountain Theatre and Old Town Hall.
- He thought towns would have to step up and support the arts.
- Old Town Hall had been a great place for the community to have a local theatre.
- The proposed rent increase would severely impact their bottom line.
- There was a jewel in Town. He asked the Council to consider a long-term lease with no rent increase. He asked if Town would benefit from an increase, compared to the benefit of not having an increase to the Mountain Theatre.

STAFF UPDATES

Janna Hansen

- The grant from the Department of Agriculture had been awarded to the joint applicants for over \$21K for an intern to help manage noxious weeds this summer.
- Crews had been working hard to clean up trash as the snow banks melted.
- Ladoulis brought up the sidewalk by the clock tower (across from Teocalli Tamale). The eastern edge had sunk, and he questioned who was responsible. Due explained that it fell on the business owner when tubing was installed. He agreed to look into it.

Rodney Due

- Attended a meeting in Gunnison on high water concerns, and he handed out graphs depicting snow pack. This year, snowfall exceeded '95 and '08.
- Due reported 5,800 loads of snow had been removed. He confirmed the Town had not charged more to private contractors for the amounts hauled to the gravel pit this year.

Lynelle Stanford

- She was looking to schedule a picture of the Council on either May 1st or May 15th.
- Working on sidewalk seating packets to send to business owners.
- The Flauschink parade would be on April 8th.
- Applications were being submitted for summer events.

Michael Yerman

- There would be a special meeting for Sixth Street Station tomorrow night.
- Discussions were ongoing with Clark's and 208 Elk.
- Cypress submitted the major impact application to the County.
- BOZAR was completely booked in April and May.

Dara MacDonald

- The discussions with the Center for the Arts on financial assistance were continuing. They were hoping to be back in April with an agreement.
- Auditors were at Town Hall this week.
- The joint meeting with the County Commissioners would be next Tuesday, March 28 from 10AM to Noon.
- She would be leaving next Thursday, and Gillie would cover the meeting on April 3rd. She would be back on April 13th.
- The 2016 budget included a new vehicle for Town Hall. Senior Staff decided it was not necessary, and they had not run into the need for another vehicle. She wanted to buy some bicycles for Town Hall instead.
- The County decided they would pull out of the vehicle registration office by the end of this month. Schmidt was disappointed. MacDonald confirmed Town was hoping to get to a rental rate of \$1,600 a year. Michel added further discussion to Other Business.
- Gillie would be retiring in June. Yerman would assume duties, and the departments would be restructured. An ordinance was required for the change. She mentioned they would like to start advertising for a senior planning position.

PUBLIC HEARING

1) Ordinance No. 4, Series 2017 - An Ordinance of the Crested Butte Town Council Approving a Loan From the Colorado Water Resources and Power Development Authority; and Authorizing the Execution of a Loan Agreement and a Governmental Agency Bond to Evidence Such Loan.

Michel confirmed proper public notice had been given. Due explained the ordinance was necessary to fulfill requirements for the loan. He explained terms of the loan and bond. Michel opened the meeting to public comment. There was no one from the public present to comment. The public hearing was closed, and there was no Council discussion.

Ladoulis moved and Merck seconded a motion to approve Ordinance No. 4, Series 2017. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) New Hotel and Restaurant Liquor License Located at 202 Elk Avenue for Public House LLC DBA Public House.

Michel confirmed proper public notice was given. David Leinsdorf, Kyra Martin, and Jake Jones were present on behalf of the applicant. Leinsdorf entered two statements of needs and desires of the community into the record. It was stated they would be open to the public, serve food, and there were two levels of the building that would be liquor licensed. Martin clarified they could be closed for private events just like any other restaurant. Schmidt asked about music and noise, and he recognized it was next to a residential area. Jones informed the Council that Public House would be under his

purview. He explained their plan for the building. The building was sound insulated, and live music would be in the basement zone.

The meeting was opened to public comment. There was no one present to comment. The public hearing was closed, and there was no further Council discussion.

Merck moved and Mason seconded a motion to approve the Hotel and Restaurant Liquor License for Public House LLC DBA Public House located at 202 Elk Avenue; Crested Butte, Colorado for the reasons stated in the staff report contingent upon the issuance of a certificate of occupancy and thereby a BOLT license. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

NEW BUSINESS

1) Presentation by High Country Conservation Advocates (HCCA) on the Thompson Divide Legislation.

Matt Reed, HCCA's Public Lands Program Director, asked the Town for a letter of support on the Thompson Divide Protection Bill. He gave background on the location of Thompson Divide and its relevance to the Town. Reed explained the significant content of the bill. He listed other entities that supported. Reed asked that the letter be drafted drawing a connection to Town. MacDonald stated the letter could be on the next Consent Agenda. The Council indicated, with a thumbs-up, to include on the next agenda, and no one voiced disagreement.

2) Ordinance No. 5, Series 2017 - An Ordinance of the Crested Butte Town Council Amending Chapter 16, Article 12 of the Crested Butte Municipal Code to Include Regulations for the Consolidation of Properties Subdivided Into Condominiums or Townhouses.

Gillie explained Ordinance No. 5 generally did not allow condos to be consolidated or vacated in a manner that would reduce residential units. He wanted to confirm it was what Council had in mind. Also, he asked if they would allow the out of providing compensation with a deed-restricted unit. Michel questioned the Council on the out. Ladoulis was not crazy about it. Michel agreed they wanted to preserve as many units as possible where they were at. Petito asked about an out, such as one in which the applicant could provide double the square footage. The discussion turned to contemplate units that were right next to each other. Belkin explained where the affordable housing allowance arose. He foresaw a Code change. Michel preferred to constrict it now. Merck liked people trading housing. Mason wanted to see as many free market condos in Town as possible. Schmidt agreed with Ladoulis. Gillie confirmed the purposes and intent section was in line with what they wanted to accomplish. Michel said the ordinance was spot on.

Mason moved and Merck seconded a motion to refer Ordinance No. 5, Series 2017 to BOZAR for a recommendation and set for public hearing at the April 3rd meeting with the following change of striking the affordable housing piece. **Motion passed.**

3) March 6, 2017 Regular Town Council Meeting Minutes.

Petito stated that in the minutes, on page 29 of the packet, it reflected that Michel called for public comment. Michel had recused himself from that part of the meeting, and it was meant to be Mason.

Schmidt moved and Merck seconded a motion to approve the minutes as amended. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Michel recused himself and left the room. Mayor Pro Tem Mason took the Mayor's seat

4) Ordinance No. 6, Series 2017 - An Ordinance of the Crested Butte Town Council Amending the Definition of Vacation Rental in Section 16-1-20 of the Crested Butte Municipal Code; Amending Section 16-14-90 of the Code to Include New Regulations for Vacation Rentals; and Making Such Other Conforming Changes to Code in Connection Therewith.

Mason read the title of the ordinance, and he provided history of past discussions. The issue was that they didn't want the community to turn into hotels. The ordinance addressed putting percentage limitations in the zones, and he listed zones that were included and not included. Mason explained the process for the meeting.

Schmidt asked Belkin about primary residences. Belkin stated they could use primary residence, but they had to under the concern of neighborhoods turning into lodging districts. Merck confirmed Schmidt wanted to allow primary residents to short-term rent in zones where it wasn't allowed. Mason referred to the green zone, and he acknowledged they were looking at 30% of the green zone having short-term rental licenses. They were considering a cap of 35% in the green zone and not allowing any more rentals in the other zones. Mason's goal was to get something that didn't get bogged down in primary residence versus non-primary residence. He reiterated there were 32 licenses remaining to get to 35%. Merck identified that they wanted to protect long-term residents the most.

Merck asked if the previous years' licenses had to be concurrent in the white zone in order to apply for a license again. Petito questioned if preference could be given to people in the white zones who had licenses before the moratorium rush. Ladoulis thought the spirit would be honored even if they had a license in 2015. MacDonald confirmed they were discussing that they would allow lapsed licenses in the white zone to renew. Schmidt didn't think they needed to go back beyond 2015. Mason questioned how they were upholding if they allowed lapsed licenses to be processed. He would then be more in favor of allowing x percentage in white zones. If they talked about increasing

in other areas, they needed to talk about the percentage. He was comfortable with the ordinance as presented.

Schmidt wanted to confirm the license went with the property, and he questioned property versus license. Gillie stated that licenses were associated with property and an owner. MacDonald understood licenses were not transferable. Belkin elaborated that a vacation rental license was tied to the property but not the owner. Gillie said the trigger was tied to the RETT. Mason wanted to be sure licenses were non-transferable. MacDonald explained that if the sale triggered the RETT, the license would not transfer.

Mason opened the meeting to public comment:

Steve Brown - 81 Par Lane

- His main concerns were: 1) they may be passing an ordinance that was setting Town up for litigation and 2) the effect of limiting on STRs could have negative impacts on the economy.
- Cited rent control statute, and he read the statute. He explained it had been ruled constitutional, and the Telluride ordinance was invalid for violating the state law.
- Questioned if anyone had a compelling argument that would actually bring back neighbors.
- All people were entitled to the same rights under the law.

David K. Owen - 903 Elk Ave

- Do not enact a prohibition by zone of short-term rentals.
- He wondered why the Council felt there was an issue with short-term rentals.
- Hard cap reminded him of Whatever USA wristbands.
- People would get licenses just to get them to add value to their homes.
- A hard limit meant less tourists and less money. It would lead to more dark houses around Town. It would not have an impact on affordable housing.
- A hard cap was logical and fair if they must make a prohibition by zone. Grandfathering was not fair or logical. If there were prohibited zones, then take the grandfathering away.
- Do not pick winners and losers.

Caren Carroll - 809 Sopris

- Agreed with Owen.
- The IRS Code clearly defined primary residence. The IRS allowed rentals of primary residences for 14 days.
- Consider locals who were short-term renting for a short period of time to pay bills.

Liz Sawyer - 810 Sopris

- Agreed with Owen.
- Unfair to restrict in zones in areas where Town had overlooked and issued licenses.

- There were a ton of locals in Verzuh Ranch.
- Extra income was wonderful.
- Her license had lapsed.
- She was asking for six weeks to short-term rent to help with income.

Don Pulley - 810 Whiterock

- He should have got his license (when he could).
- It was tough to swallow.
- Suggested they offer another deadline.

Todd Carroll - 809 Sopris

- He wanted to talk about the white zone. They were starting to think about short-term renting now.
- There was a worry, if licenses were non-transferable, the white zone would be a dark zone.
- It would help to keep locals in Town if they were allowed to short-term rent.

Susan Eskew - 201½ Gothic Ave

- Told the Council to think about the middle-class that was represented in the room. Consider the guests as well.
- Changing the market to allow 30-day rentals attracted a different type of people.

Jim Starr - 323 Gothic

- They were on the right track.
- They would address people tonight by taking Schmidt's suggestion (on primary residence).
- Don't be scared by legal action.
- Keep community and promote people already living here.

Mindy Sturm - 117 Teocalli

- Thanked the Council for opening up discussion in white zones.
- She was not sure what they were trying to solve.
- Town was known to write bad policy that was not enforced.
- She brought up aging parents and that people could have to leave to take care of them.
- By limiting white zones, they were limiting the locals of the Town.
- It was poorly written policy that should not be passed. There were loopholes and room for a lawsuit.

Mason brought the meeting back to Council discussion. He saw a strong showing from people in excluded areas. Mason said they were trying to limit rentals in the green zone and had to discuss what they should do in the white zone. He thought the green zone was in good shape. He reminded the Council that the white zone also included the mobile home district and other high-density zones. Ladoulis thought the comments from the public were consistent with the spirit of what they were trying to accomplish. They

needed to get the primary residence question raised and answered. Mason identified the problem as the conversion of residential properties into commercial businesses. Merck thought the community was asking to be able to fairly rent their homes to be able to stay.

Mason referred to the questions asked by Brown during public comment. Belkin stated the interpretation of the rent control statute didn't apply. Mason reiterated they didn't want residential areas to turn into commercial zones. They were currently discussing equality and fairness. He thought it was difficult to differentiate between a primary and a non-primary residence. They were trying to address the issue of allowing things to happen that shouldn't have been allowed. Mason saw they would have the silver bullet if they could define primary residence. Merck thought if they didn't allow a primary resident to rent, they would lose more than they would gain. Petito would like to see a 20% limitation in both zones, with the exception of primary residences. He didn't want people to come to Town to buy mini hotels. Schmidt stated all zoning was unfair. Belkin recognized how they supported was the key to the legality of the primary residence question. Schmidt wanted to add in the primary residence allowance. Petito thought they would be on solid ground with the IRS definition of primary residence.

Mason asked the Council about limiting. Schmidt said the questions were if they allowed primary residents to rent and how long they allowed it. Belkin didn't think the definition of primary residence was the challenge. Mason identified the focus was on when the Town considered that a residence became a commercial business. Gillie pointed out locals could create commercial operations as well. Ladoulis was okay with an exception for primary residence because it reflected the spirit. Petito was agreeable to the primary residence exception, too. It was summarized that Council was going back to looking at primary residences being exempt from the permit cap.

MacDonald asked if they wanted to limit the number of days for primary residents. The Council wanted to see some limit on the number of days. She asked if they were changing the percentages. Mason said currently they were not. Ladoulis stated there could be two tiers of licenses. MacDonald recapped they would modify the existing ordinance to allow another track that would apply to the entire town for primary residences. Gillie questioned non-primary residences in white zones. They could maintain renting as long as they maintained the BOLT. MacDonald recommended they continue the first reading of the ordinance.

Schmidt moved and Merck seconded a motion to continue the first reading of Ordinance No. 6, Series 2017 with direction as specified by the Town Manager to May 15th, 2017.

Motion passed.

Mayor Michel returned to the meeting, and he took his seat.

5) Discussion on HB17-1242.

Michel explained HB17-1242 and the implications to sales tax. He acknowledged it would put the local sales tax at over 10%. Mason knew of other taxes that could be on

the ballot. Schmidt wondered why they gave up on the gas tax, and he couldn't agree to write a letter that would support a proposed sales tax increase. Michel recognized the tax would fall on local retailers and Town's economy. The gas tax was not keeping up with inflation. MacDonald suggested discussing with other entities in the area such as Mt. Crested Butte and the County. Michel said that CML was listening. The Council determined they would not take action at this time.

LEGAL MATTERS

None

COUNCIL REPORTS UPDATES AND COMMITTEE UPDATES

Jim Schmidt

- The Housing Committee had five applications for the new director. They would interview three people via Skype to narrow the field.

Jackson Petito

- Attended a Housing Foundation meeting last Wednesday. They talked about the Housing Authority's strategic plan. They were entertaining the possibility of a tax.

Chris Ladoulis

- The busy spring break period just ended. Everyone seemed to believe it was a different spring break crowd.

Paul Merck

- Participated in the Al Johnson play at the museum and the Avalanche Center's Al Johnson race.
- Went to the Creative Arts District special meeting, and they interviewed people for the committee.
- He missed the Center's meeting because of the Council retreat. The update was on what they were working on for financing with Town.

Roland Mason

- There was a RTA meeting last week that he missed.
- The Mountain Express meeting would be on Thursday, and the audit meeting would be tomorrow.

Glenn Michel

- Attended CAST last week. His main take away from Mayor Hancock was that Denver was dealing with the same issues as Town. The State Economist predicted a recession. A presentation from Ski Country USA indicated that skier numbers were up. The message was baby boomers had wealth, but millennials were driving growth.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Michel asked the Council about potentially sending a letter to the Board of County Commissioners concerning the DMV office closing in Town Hall. Mason recognized people could do a lot online. Ladoulis thought they could preserve it. Schmidt wanted to send a letter and copy Mt. Crested Butte and CB South. Mason suggested they direct Staff to give Mt. Crested Butte a call. Michel agreed with Schmidt that they should send a letter. The Council unanimously agreed.

The Council discussed at the retreat that they needed to review the Town Attorney. It was decided to schedule the review for May 17 from 9AM to Noon.

Schmidt was approached by a property owner regarding the 0 Block of Sopris. He asked if paving was on the Town's radar.

Schmidt wondered if there had been action on the potential Town picnic. He thought they needed to direct Staff. MacDonald told Council that Staff could come up with the scope and general budget. Ladoulis suggested it be held the week after school gets out, which was the week of June 12.

Mason identified it would be beneficial to Council to have a work session on how the transition would happen with the merger of departments. MacDonald stated they could accomplish a lot through the process of the ordinance.

Ladoulis talked to a business owner who lamented they would have to wait until May 15 for sidewalk seating. Schmidt said it used to snow in May, and crews would have to plow. MacDonald would bring back the topic for discussion.

Michel suggested they ask for an update from the Chamber, specifically to learn where the BOLT money was being allocated. He wanted to re-establish the relationship. No one on the Council disagreed.

MacDonald included retreat follow-up in the packet. She asked for any comments from the Council.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, April 3, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, April 17, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, May 1, 2017 - 6:00PM Work Session - 7:00PM Regular Council

Michel, Mason, and Ladoulis would be gone for the meeting on April 17th. Council would discuss at the next meeting.

EXECUTIVE SESSION

Michel read the reason for Executive Session:

For a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b).

Merck moved and Mason seconded a motion to go into Executive Session for this topic. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Schmidt was present for the first discussion related to Freeport-McMoRan. He recused himself and left the meeting before the Council discussed Poverty Gulch.

The Council went into Executive Session at 10:32PM. Council returned to open meeting at 11:34PM. Mayor Michel made the required announcement before returning to open meeting.

Ladoulis hereby moved and Petito seconded a motion to approve the Agreement Regarding Assignment of Junior Lien and Redemption Rights and instruct the Mayor to execute the same. A roll call vote was taken with all voting, "Yes," except for Schmidt who had recused himself. **Motion passed unanimously.**

Petito hereby moved and Ladoulis seconded a motion to approve the Town filing the Notice of Intent to Redeem with the Gunnison County Public Trustee, with the Town Attorney executing the same. A roll call vote was taken with all voting, "Yes," except for Schmidt who had recused himself. **Motion passed unanimously.**

Mason hereby moved and Petito seconded a motion to instruct the Town Attorney to work with the attorneys of the junior lienholder that has filed a notice of intent to redeem to pay off such junior lienholder in exchange for the assignment of its junior lien and redemption rights, in an amount not to exceed \$10,000.00. The Town Manager may enter into such agreements prepared by the Town Attorney necessary to consummate such transactions. A roll call vote was taken with all voting, "Yes," except for Schmidt who had recused himself. **Motion passed unanimously.**

Ladoulis hereby moved and Petito seconded a motion to instruct the Town Staff and Town Attorney to prepare resolutions of the Town Council for presentation at the April 3, 2017 Town Council meeting approving the payment of \$93,000.00 and such other amounts necessary to redeem the certificate of purchase issued to Mindy Sturm. A roll call vote was taken with all voting, "Yes," except for Schmidt who had recused himself. **Motion passed unanimously.**

ADJOURNMENT

Mayor Michel adjourned the meeting at 11:47PM.



Glenn Michel, Mayor



Lynelle Stanford, Town Clerk

(SEAL)

